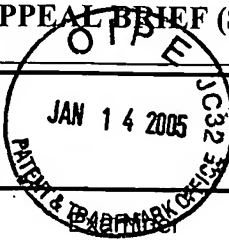


TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No.
BAO-10002/03

In Re Application Of: ODED BEN-ARIE



Application No. 10/027,094	Filing Date December 20, 2001	Inventor Jennifer A. Stone	Customer No. 25006	Group Art Unit 2636	Confirmation No. 9695
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Invention: HEAD MOUNTED OPTICAL DEVICE DESIGNED TO PROVIDE A PILOT WITH PRIMARY FLIGHT DISPLAY IMAGE

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

☒ Applicant claims small entity status. See 37 CFR 1.27

The fee for filing this Appeal Brief is: \$250.00

☒ A check in the amount of the fee is enclosed.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 07-1180

☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Allen M. Krass
Signature

Dated: January 14, 2005

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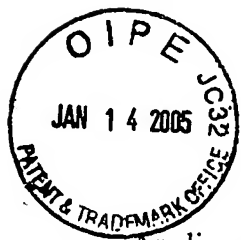
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(Date)

Judith T. Lange
Signature of Person Mailing Correspondence

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Typed or Printed Name of Person Mailing Correspondence



Attorney Docket No. BAO-10002/03

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF APPEALS AND INTERFERENCES**

Applicant: Oded Ben-Arie

Serial No.: 10/027,094

Group Art Unit: 2636

Filing Date: December 20, 2001

Examiner: Jennifer A. Stone

For: HEAD MOUNTED OPTICAL DEVICE DESIGNED TO PROVIDE A
PILOT WITH PRIMARY FLIGHT DISPLAY IMAGE

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. Real Party in Interest.

The real party in interest in this case is Oded Ben-Arie, Applicant and Appellant.

II. Related Appeals and Interferences.

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims.

The application was filed with three claims. By an amendment dated March 9, 2004, claim 1, the sole independent claim, was amended. Claims 1-3, all the claims in the application, are under appeal.

IV. Status of Amendments Filed Subsequent to Final Rejection.

No after-final amendments have been filed.

V. Concise Summary of the Invention.

This invention relates to a system for providing the pilot of an aircraft equipped with an Electronic Flight Information System (EFIS) and an output port on the aircraft panel for the EFIS information, for use in maintenance, with a heads-up display of the EFIS panel, focused at infinity. This allows the pilot to determine the information contained in the EFIS display while looking through the windshield of the aircraft without refocusing his eyes as is required when viewing instruments on the instrument panel. The system of the present invention includes a computer 14 (page 6, line 11) connected to an EFIS port 12 on the instrument panel 10 (page 6, lines 11 and 12). The computer formats an output and provides it in a form focused at infinity to a clip-on display 20 (page 6, lines 14 and 15; item 20 Figures 2 and 3). The display 20 is adaptable for eyeglass mounting in a clip-on fashion (page 6, lines 15-18). The computer processes the information from the port 12 into a single display, focused at infinity, which incorporates outputs from all the principal flight instruments (page 6, lines 17-19).

VI. Concise Statement of Issues Presented for Review.

Are claims 1-3 obvious under 35 U.S.C. §103(a) over Schoolman (U.S. 5,281,957) in view of Kubik (U.S. 4,753,514) and Lewis (U.S. 4,028,725)?

VII. Grouping of Claims for Each Ground of Rejection Which Appellant Contends.

Appellant believes that there is only a single group of claims requiring consideration in this appeal.

VIII. Argument.

All of the claims were rejected under 35 U.S.C. §103 over the combination of Schoolman in view of Kubik and Lewis. In rejecting claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine references, to arrive at Appellant's claimed invention. There must be something in the prior art that suggests the combination, other than the hindsight gained from knowledge that the inventor chose to combine these particular things in this particular way. *Uniroyal v. Rudkin-Wiley Corp.*, 437 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is also required to make specific findings on the suggestion to combine prior art references. *In re Dembiczak*, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

Schoolman discloses an eyeglass-mounted display which can accept information related to an aircraft navigation source such as a LORAN or a GPS receiver. The navigation information can be displayed directly to the pilot in a heads-up fashion. The Examiner recognizes that Schoolman limits the display to navigation equipment rather than the principal flight instruments. Lewis is cited as showing an entire cockpit instrument panel displayed on a helmet. The display is illustrated in Figure 9B of Lewis. Kubik is cited for the disclosure of a display screen that may be clipped onto a pair of eyeglasses.

The information displayed in the present invention is neither the entire instrument panel of an aircraft as disclosed in Figure 9B of Lewis nor a navigation instrument such as disclosed in Schoolman but is rather the Electronic Flight Instrument System data, as illustrated in Figure 1. As discussed in the specification, the virtue of this approach is that it provides a pilot with a condensed and readily scanned summary of the flight information which he needs and it is

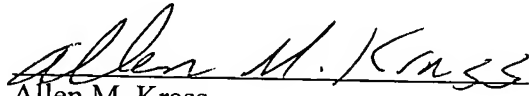
available from an output port on the instrument panels of many planes. These output ports are not provided to generate a display to the pilot. Rather, they are provided for maintenance purposes. Independent claim 1 emphasizes this distinction and the claim is clearly limited to use with an airplane equipped with an EFIS data output port. None of the cited art discloses an aircraft equipped with such a port although such ports are known to exist and are probably disclosed by manufacturers' literature. As stated, these ports are intended for maintenance purposes and the Appellant is unaware of any suggestion of use of these ports for a display purpose.

The concept of feeding the information from the port to a computer which formats it into a display focused at infinity, all as defined in claim 1, is certainly not disclosed or suggested by any of the references. The broad idea of using the information from the EFIS port for display purposes in a head-up manner is not disclosed or suggested by any of the cited references. Even if a reference disclosing an aircraft panel with an EFIS output port, which the Appellant recognizes is old, were added to the combination, the idea of using that information to generate a head-up display to a clip-on device for eyeglasses would not be suggested.

It is respectfully submitted that the cited references fail to disclose or suggest the combination for several reasons: (1) they do not disclose or suggest an EFIS port on the instrument panel of an aircraft; and (2) they do not suggest or disclose the use of the EFIS information to generate a head-up display for the pilot.

It is respectfully submitted that the cited references, alone or with the admittedly old art, do not rise to the level required by *Graham v John Deere*, 383 US 1, 148 USPQ 459, to establish the obviousness of the present invention.

Respectfully submitted,



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Judith T. Lange

APPENDIX A

CLAIMS ON APPEAL

1. A system for providing a pilot of an airplane equipped with an Electronic Flight Instrument System (EFIS) data output port with a display of primary flight instruments that can be viewed while the pilot's eyes are focused at infinity through the aircraft windshield, comprising:
 - a computer;
 - means for connecting the computer to said data output port on the aircraft's instrument panel; and an eyeglass mounted, clip-on, display operative to receive the output of the computer,
 - the computer being operative to process the information from the electronic flight instrument system outlet port into a single display, focused at infinity, which incorporates outputs from all of the principal flight instruments.
2. The system of claim 1 wherein the display is in the form of a primary flight display.
3. The system of claim wherein the eyeglass mounted display constitutes a liquid crystal display.